

Message Text

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ACTION STR-07

INFO OCT-01 AF-10 ARA-10 EA-10 EUR-12 NEA-10 IO-13
ISO-00 STRE-00 OIC-02 AGRE-00 CEA-01 CIAE-00
COME-00 DODE-00 EB-08 FRB-03 H-01 INR-10 INT-05
L-03 LAB-04 NSAE-00 PA-01 CTME-00 AID-05 SS-15
ITC-01 TRSE-00 SP-02 SOE-02 OMB-01 DOE-15 NSCE-00
SSO-00 ICAE-00 INRE-00 DOEE-00 /152 W
-----070001 101432Z /50

O 101406Z APR 78
FM USMISSION GENEVA
TO SECSTATE WASHDC IMMEDIATE 8151
INFO AMEMBASSY NEW DELHI

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USMTN

ACTION STR

STR PASS CODEL

EO 11652:N/A
TAGS: MTN, ETRD, IN
SUBJECT: INDIAN TROPICAL PRODUCTS AGREEMENT

REF CABLES: (A) STATE 088228 (B) STATE 085780 (C) PARIS
11349 (D) NEW DELHI 3032

1. SUMMARY: IN DIFFICULT, AT TIMES CONTENTIOUS, NEGOTIATING SESSIONS WITH HODA, SANDILYA ON FRIDAY AND SATURDAY MORNINGS SOME PROGRESS WAS MADE. HODA ACCEPTED AT "GRAEF-HODA" LEVEL VARIATIONS OF PROPOSED AMENDMENTS IN PARA 3(A), (B) AND (E) OF REFTEL (B) AND AGREED TO DISCUSS CHANGES PROPOSED IN PARAS (2) AND (5) OF REF (C) WITH SHUKLA WHO WILL BE IN LONDON APRIL 10. NEXT SESSION WILL BE AFTERNOON
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OF APRIL 11 OR APRIL 12 DURING SCHEDULED US/INDIA BILATERAL. NEGOTIATING INSTRUCTIONS FOR US DEL WILL BE NEEDED.
END SUMMARY.

2. HODA CONTACTED MTN DEL (GRAEF) ON HIS ARRIVAL IN GENEVA PER HIS AGREEMENT WITH LANDE. AT BREAKFAST MEETING APRIL 7 HE INDICATED "EMBARRASSMENT" EXPERIENCED BY SHUKLA WHO HAD

INFORMED HIS MINISTER THAT AGREEMENT HAD BEEN CLEARED EXCEPT FOR MINOR TECHNICAL CHANGES WHEN IN FACT SEVERAL SUBSTANTIVE CHANGES (BILATERAL CONSULTATIONS, AND BINDINGS) HAD BEEN PROPOSED DESPITE "ARDUOUS" NEGOTIATION OF THESE ISSUES IN NEW DELHI. MTN DEL EXPLAINED CHANGES AS TECHNICAL (LEGAL) RELYING HEAVILY ON THE ARGUMENT THAT THE EX-CHANGE OF LETTERS COULD NOT BE CONSIDERED AN AGREEMENT WHEN THERE WAS AN EXPLICIT DISAGREEMENT ON BINDING.

BALANCE OF THIS AND SUBSEQUENT DISCUSSION IS REPORTED BELOW KEYED TO SUBSTANTIVE PARAS OF REFTELS (B) AND (C)

3. PARA 3(A) REFTEL B. HODA ACCEPTED THIS CHANGE BUT REQUESTED THAT PROPOSED ADDITIONAL CLAUSE BE PLACED IN MIDDLE OF SENTENCE. MTN DEL ACCEPTED. FIRST SENTENCE OF LAST PARAGRAPH OF GOI LETTER NOW READS: "MY GOVERNMENT REQUESTS YOUR GOVERNMENT AND AS STATED IN YOUR LETTER OF TODAY'S DATE YOUR GOVERNMENT..."

4. PARA 3 (B) OF REFTEL (B) HODA ARGUED THAT TONE OF SUGGESTED AMENDMENT IMPLIED SUSPICION/DISTRUST. HODA ALSO REPEATED GOIS PROBLEMS WITH INCREASINGLY FORMAL AGREEMENT AND POINTED TO AMB. WOLFF'S STATEMENT (IN NEW DELHI) THAT INFORMAL APPROACH THROUGH EXCHANGE OF LETTERS WAS POSSIBLE. THE TWO DELEGATIONS AGREED ON THE FOLLOWING NEW SECOND SENTENCE TO US LETTER IN FIRST PARAGRAPH. "I HAVE FURTHER TAKEN NOTE OF THE LETTER (D.G. NO 10/46/7 5-TPD) DATED FEB 24, 1978, FROM MR. S.P. SHUKLA TO STEPHEN LANDE WHICH LIMITED OFFICIAL USE

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EXPLAINS THE SPECIFIC LIBERALIZATION MEASURES ON SPARE PARTS, AND ON DRY, SALTED, OR PRESERVED FRUITS WHICH INCLUDES ALMONDS, REFERRED TO IN YOUR ABOVE MENTIONED LETTER OF ...".

5. PARA 3(E) REFTEL (B). HODA AGREED TO CHANGE AS PROPOSED.

6. PARA 3 (C) REFTEL (B). HODA STATED HIS INSTRUCTIONS WOULD NOT ALLOW HIM TO GO BEYOND THE CURRENT SECOND SENTENCE OF PARA 4 IN GOI LETTER. HE STATED THAT THIS TEXT HAD BEEN SUBJECT TO HOURS OF NEGOTIATION IN NEW DELHI, DETAILED PARLIMENTARY REQUIREMENTS OF GOI CHANGES TO ITS IMPORT REGIMES, AND EXPLAINED THAT ONLY 5 OFFICIALS IN GOI WERE PRIVY TO CHANGES PRIOR TO APRIL 1 ANNOUNCEMENT OF CHANGES. IN RESPONSE TO MTN DEL QUESTION HE CLARIFIED THAT G.O.I. WOULD ACCEPT GATT OBLIGATION TO CONSULTATIONS BUT CONSULTATIONS COULD NOT PRECEDE ACTUAL IMPLEMENTATION OF CHANGES. IN SHORT GOI WAS NOT PREPARED TO GIVE USG A RIGHT NO ONE ELSE HAD FOR TP CONCESSIONS.

7. PARA 3(D) REFTEL (B). MOST CONTENTIOUS DISCUSSION

OCCURRED ON THIS POINT. HODA BEGAN BY STATING THAT G.O.I. WOULD NOT EVEN ADDRESS THE QUESTION OF BINDING THE TYPE OF CHANGES THEY WERE MAKING. MTN DEL SAID THIS WAS THE KEY QUESTION IN THE OVERALL NEGOTIATINGS BETWEEN US AND INDIA AND THAT G.O.I. COULD HARDLY EXPECT US TO BIND IN THE ABSENCE OF ANY SECURITY FOR INDIA'S CONTRIBUTIONS. HODA CLARIFIED THATAFTER CONSIDERING QUESTIONS OF ITS

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CONTRIBUTION G.O.I. WOULD DECIDE WHETHER IT WOULD BIND TARIFF CONCESSIONS (AT ONE POINT HODA SAID G.O.I. PREPARED TO BIND TARIFF CONCESSIONS, WHICH HAD GREAT VALUE IN THE ABSENCE OF LICENSING REQUIREMENT) BUT BINDING OF NTM CONCESSIONS WAS IRRELEVANTUNDER GATT AND WOULD BE ABDICATION OF A RIGHT INDIA HAD AS A DEVELOPING COUNTRY. MTN DEL DISAGREED POINTING TO BINDING OF EXPORT TAXES, AND TARIFF RATE QUOTAS UNDER GATT, NOTED THAT ARTICLE XVIII (A) AND (C) RIGHTS WOULD BE UNAFFECTED, AND STATED THAT EFFECTIVE BARRIER IN INDIA WAS LICENSING NOT TARIFFS. IRONICALLY HODA CONCURRED IN LAST POINT GIVING THE ASSURANCE HOWEVER THAT AS LONG AS BOP AND RESERVES SITUA-

TION IMPROVED GOI WOULD MAINTAIN AND IMPROVE ITS LIBERALIZATIONS. MTN DEL SHIFTED DISCUSSION TO PROPOSALS MADE IN LIMITED OFFICIAL USE

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PARAS 2 AND 5 OF REFTEL C.

8. AFTER CONSIDERABLE DISCUSSION HODA ACCEPTED RATIONALE FOR US CHANGES BUT INDICATED HE WOULD HAVE TO TAKE THEM UP WITH SHUKLA WHO WOULD BE IN LONDON APRIL 10. HODA REMINDED MTN DEL THAT HOPE VERSUS EXPECTS IN LAST SENTENCE OF GOI LETTER HAD ALREADY BEEN SUBJECT OF CONSIDERABLE NEGOTIATION BUT THAT HE WOULD TRY TO CONVINCE SHUKLA OF THESE CHANGES (ONE FORMULATION THAT WAS TRIED AND NOT REJECTED WAS "MY GOVERNMENT NOTES THAT IT HAS BEEN CUSTOMARY FOR YOUR GOVERNMENT TO BIND CONCESSIONS MADE DURING MULTILATERAL TRADE NEGOTIATIONS IN THE GATT) HODA HOWEVER PULLED BACK FROM HIS EARLIER AGREEMENT REFLECTED IN PARAS 3-5 ABOVE STATING AGREEMENT WAS AT HODA/GRAEF LEVEL GIVEN THE NUMBER OF NEW CHANGES US WAS SEEKING. MTN DEL INDICATED US AGREEMENT WAS AD REFERENDUM AS WELL.

9. MTN DEL PER LANDE/GRAEF TELCON ALSO TRIED TO INCLUDE CITATION OF LIBERALIZATION ACTION ON OTHER MACHINERY IN TEXT OF G.O.I. LETTER. HODA EXPLAINED THAT OTHER MACHINERY WAS SUB ITEM UNDER HEAVY MACHINERY AND THAT CITATION OF SPECIFIC MEASURE WOULD REQUIRE COMPLICATED CROSS REFERENCING WHICH WOULD TAKE SEVERAL DAYS AND OUT OF PLACE IN G.O.I. LETTER. HE UNDERTOOK TO INSERT CITATION IN NEW SHUKLA/LANDE LETTER BUT POINTED TO DIFFICULTIES OF RE-OPENING SUBJECT AND SUGGESTED THAT REFERENCE BE DELETED ENTIRELY. US DEL EXPLAINED LANDE/HODA UNDERSTANDING ON CITATIONS OF MEASURES AND NOTED CONCESSION BALANCE WAS IN DANGER OF BEING UNRAVELLED. HODA RESPONDED IT WAS ALREADY BALANCED IN US FAVOR (BRIT PREFERENCES COVERING \$31 MILLION) AND DEBATE ENSUED. IT WAS FINALLY AGREED TO DISCUSS ONLY TEXTUAL CHANGES AND LEAVE BALANCE OF CONCESSIONS INTACT.

10. COMMENT: EXCHANGE OF LETTERS IS STILL POSSIBLE BUT

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BASED ON FRAGILE NEGOTIATING BALANCE. BASED ON THREE SEPARATE COMMUNICATIONS WE HAVE HAD TO INTRODUCE TECHNICAL CHANGES INTRODUCING NEW ELEMENTS INTO THE NEGOTIATIONS. REQUEST FINAL NEGOTIATING INSTRUCTIONS. END COMMENT.

11. DRAFTED BY GRAEF. MCDONALD

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Message Attributes

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